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Before the  
Federal Communications Commission  
Washington, D.C. 20036

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Implementation of Section 9 ) MD Docket No. 94-19  
of the Communications Act )  
 )  
Assessment and Collection of )  
Regulatory Fees for the 1994 )  
Fiscal Year )

**COMMENTS OF ALLNET COMMUNICATION SERVICES, INC.**

Allnet Communication Services, Inc. (Allnet), herein provides its comments on the Commission's Notice of Proposed Rulemaking in the above-referenced docket, released March 11, 1994 (Fee NPRM). The Fee NPRM requested comments on certain proposals set forth in the docket.

The Commission's authority to collect the fees set forth in the Fee NPRM was granted in the addition of Section 9 to the Communications Act in the Omnibus Reconciliation Action of 1993 (1993 Budget Act). The 1993 Budget Act set out certain regulatory fees that the Commission could assess on regulatees and stated that these fees could not be changed in the initial collection for Fiscal Year 1994.

Allnet is an interexchange carrier who would be subject to two classes of regulatory fees set forth in the Fee NPRM - (1) the \$60 per 1,000 presubscribed access lines IXC fee; and (2) the \$55 per call sign Domestic Public Fixed microwave fee. Thus, Allnet is an affected party and has an interest in assuring that the fees which are assessed and collected by the Commission are done so in a manner consistent with Section 9 of the Act and Congressional intent in the 1993 Budget Act.

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List A B C D E \_\_\_\_\_

**I. The Commission's Rules For IXC Fees Based On Presubscribed Lines Should Address How Disputes In PSL Counts Are To Be Handled**

Based on the fact that the Commission will assess and collect fees from IXCs on the number of presubscribed lines reported to it by NECA, a carrier would be liable for a currently reported NECA PSL count. The proposed rules do not account for how disputed PSL numbers (which are used to derive the IXC fee) would be treated. The proposed rules should be modified to specifically state that IXC's who are disputing the NECA PSL's may present data to the Commission demonstrating that their PSL count is under dispute, and the fee should be based on the lower of the PSL's. In the alternative, the Commission's Rules should clearly state that if an IXC is assessed a fee based on the NECA reported PSL count and that count is corrected as a result of a dispute, the Commission would either refund the difference back to the IXC, or apply the credit to the IXC's next fiscal regulatory fee assessment.

**II. The Commission Should Clarify That LECs May Not Treat FCC Fee Assessments As Exogenous Costs**

In the Fee NPRM, the Commission does not address the treatment of the FCC assessments by carriers subject to price caps. However, this matter is important, and the Commission should specify the expected treatment of the fee assessments in this proceeding as to avoid any confusion in future price cap tariff filings. The Commission should not permit LECs to treat the FCC fees as exogenous costs (under price caps) which would be included in the rate making process. The FCC fees which the LECs and other regulatees will pay, are by their nature, a "tax," because the purpose for which these funds are used [funding the

Commission] is the same as that of general taxes collected by the U.S.

Government. In other words, these fees displace some of general taxes that were previously used for funding the Commission's operations. The FCC's price cap rules specifically deny the treatment of tax changes as exogenous. It is the same funds being assessed in a different manner. [See, In the Matter of Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313, Second Report and Order, October 4, 1990 at ¶¶ 176-179].

**III. The Commission's Proposal To Assess Installment Payment Charges of \$50 Per Payment Is Impermissible**

The Commission proposes to "recover the additional costs of maintaining installment payment plans..." by charging a fee of \$50 per payment [Fee NPRM at ¶33]. However, the Commission was not given explicit authority to assess the proposed installment fee. The 1993 Budget Act language in Section 9 of the Act clearly states only that "[s]uch rules and regulations shall permit payment by installments in the case of large amounts..." [Section 9(f)(1)]. Thus, this charge should be removed.

**IV. The Commission Should Clarify That The Fees Are Assessed On Private Pay Telephone Providers**

Private pay telephone providers (PPOs) provide communication services subject to Title II of the Act. The PPOs act, in effect, both as local exchange carriers in the provision of access from their telephones, and as long distance providers in their provision of long distance service. Sent-paid calls, and from some payphones, 0+ calls, are charged and rated by the payphone at the payphone operator's rates. [See, e.g., Exhibit I herein] The Commission should clarify that the fee for local exchange carriers and interexchange carriers should also apply

to all private pay telephone providers. Otherwise, the Commission will provide these companies a privileged position by exempting them from helping to support the agency that regulates their behavior, and provides them with privileges. [See, eg. CC Docket No. 91-35] Exemption of these PPOs would also create an advantage for them vis a vis their competitors in each market.

**V. The Commission Should Clarify That A LEC Who Provides Interexchange Service Must Pay Both IXC and LEC Fees**

Many LECs are in both the LEC and IXC business. The Commission should clarify that the fees for both types of operations apply to firms who operate in both markets to assure that these firms are not provided an unwarranted preference over their competitors in either market in which they compete.

**VI. Conclusion**

The Commission should modify its proposed fee rules as discussed above. Such modifications more accurately reflect the actual Section 9 modifications to the Act set out in the 1993 Budget Act, and Congressional intent.

Respectfully submitted,  
ALLNET COMMUNICATION SERVICES, INC

J. Scott Nicholls  
Manager of Regulatory Affairs  
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Dated: April 7, 1994

**EXHIBIT I**

EX PARTE OR LATE FILED

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## KECK, MAHIN & CATE

FILE NUMBER 45691-401

DIRECT DIAL 202-789-3401

March 18, 1994

RECEIVED  
MAR 22 1994  
FCC MAIL ROOM

Mr. William Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, NW - Room 222  
Washington, D.C. 20554

Re: CC Docket No. 91-35  
In the Matter of Policies and Rules Concerning Operator  
Service Access and Pay Telephone Compensation

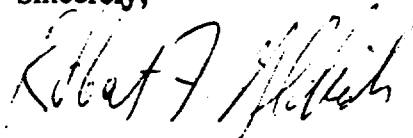
### NOTICE OF WRITTEN/ORAL EX PARTE COMMUNICATION

Dear Mr. Caton:

On Wednesday, March 16, 1994 Albert H. Kramer, Robert Aldrich, David Jeppsen, and Dana Lesemann, attorneys with Keck, Mahin & Cate, counsel to the American Public Communications Council; and Vincent Sandusky, President and Bart Lewyn, Administrative Assistant of the American Public Communications Council, met with Karen Brinkman, legislative advisor to Chairman Reed Hundt and Rudy Baca, legislative advisor to Commissioner James Quello. At this meeting, the above-mentioned individuals discussed the information in the attached materials, which was also distributed to members of the group.

If you have any questions regarding this matter, please do not hesitate to contact the undersigned.

Sincerely,

  
Robert F. Aldrich

Enclosures

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## **CURRENT SITUATION -- DIVERGENT POLICIES**

### **LEC PUBLIC PAYPHONES**

#### **I. TECHNOLOGY**

**A. GENERALLY "DUMB" PAYPHONE THAT  
INTERCONNECTS VIA "COIN LINE" FOR  
CENTRAL OFFICE CONTROL**

- 1. CALL RATING**
- 2. COIN COUNTING**
- 3. ANSWER SUPERVISION**
- 4. COIN SUPERVISION**
- 5. ROUTING**
  - **OPERATOR TRUNKS ONLY ON  
INTERLATA AND  
INTERNATIONAL; TO OPERATOR  
STATION ONLY**
  - **NO FRAUD EXPENSE**

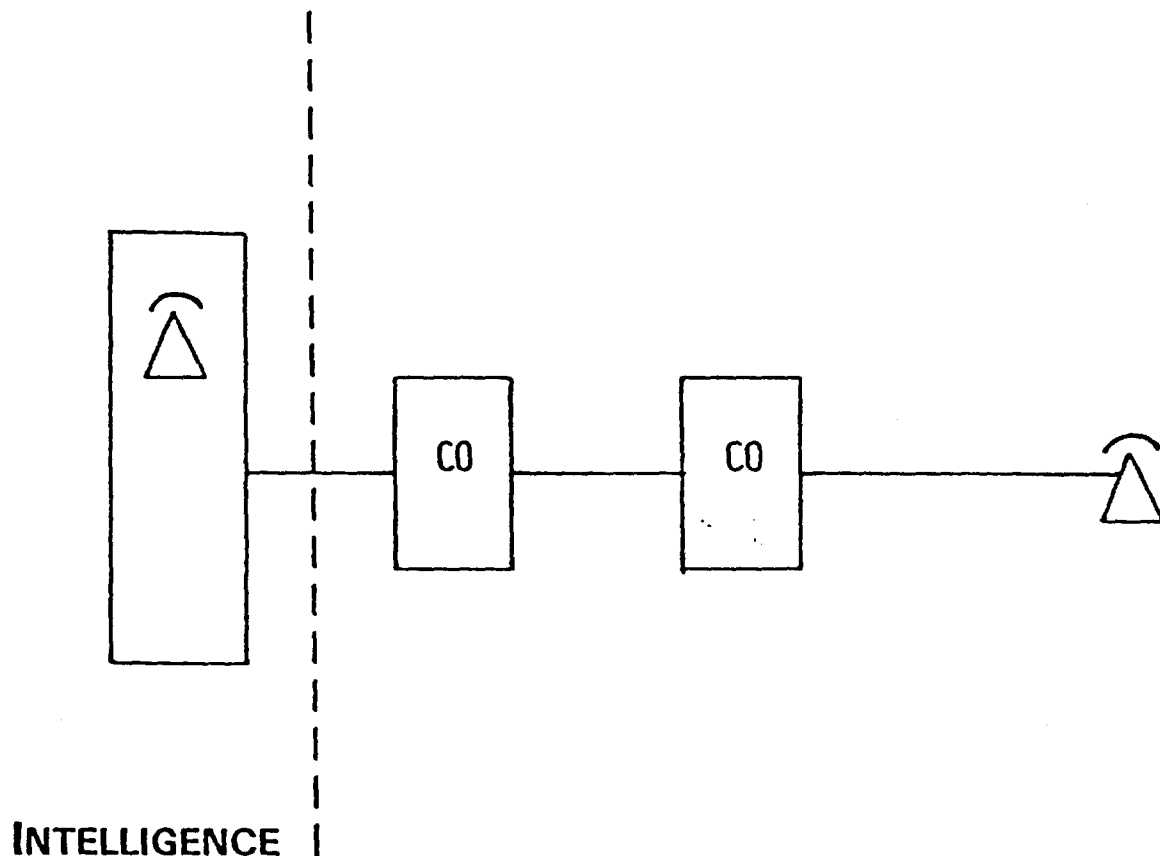
### **INDEPENDENT PUBLIC PAYPHONES**

#### **I. TECHNOLOGY**

**A. "SMART" PAYPHONE DRIVEN BY  
ON-BOARD MICRO PROCESSOR -  
INTERCONNECTED VIA BASIC  
TELEPHONE LINE**

- 1. CALL RATING**
- 2. COIN COUNTING**
- 3. CALL PROGRESS LINE  
TRACKING**
- 4. COIN SUPERVISION**
- 5. ROUTING**
  - **FG TRUNK ROUTING  
- FRAUD**

INDEPENDENT PUBLIC PAYPHONE }  
CUSTOMER OWNED PAY TELEPHONE }  
COMPETITIVE PAY TELEPHONE }  
PRIVATE PAY TELEPHONE }



**"SMARTS" RESIDE IN THE PAY TELEPHONE ITSELF, OR IN DISTRIBUTED TECHNOLOGY. THEY DO NOT RESIDE IN THE NETWORK.**

**SERVICES PROVIDED ARE SET-BASED NOT NETWORK-BASED.**

*Courtesy of Intellicall.*